

REMARKS

In this response and amendment, claims 1-3 and 5 have been amended and claim 4 has been canceled. Claims 6-9 were previously withdrawn. Accordingly, claims 1-3 and 5 remain pending in the present application.

I. Election/Restrictions and Claim Amendments

On page 2 of the Office Action, the Examiner acknowledged Applicant's election of Invention I, claims 1-5 filed on October 29, 2008 and withdrew claims 6-9. Applicant reserves the right to pursue the subject matter of claims 6-9 in a divisional or continuation application.

In addition, Applicant has herein amended claim 1 to recite in relevant part: "mass of predominantly unscored animal wool, ~~hair, or fur~~ wherein the natural biodegradable felt includes at least a portion of animal faeces derived from the unscored animal wool. Applicant submits the amendment is fully supported by the specification as filed, i.e., at page 4, Example 1, it recites: " . . . the unscored wool includes at least a portion of dag wool. Dag wool includes a portion of animal faeces"

II. Claim Rejections - 35 U.S.C. § 102 and § 103

On page 2 of the Office Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0123520 to McCrory et al. ("McCrory").

Specifically, Examiner recites on pages 2-3 of the Office Action:

For claim 1, McCrory et al. teach a natural biodegradable felt suitable for growing seeds, seedlings, or plants comprising a mass of predominantly unscoured animal wool [0007][0013], hair [0012], or fur [0007] [0013].

For claim 2, McCrory et al. teach the felt being suitable for growing seeds, seedlings or plants, or for the transporting fruit, shellfish, fish, vegetables, and plants [0016][0031][0032], constructed at least in part from a felt of needlepunched [0012][0013] unscoured animal wool [0007][0012][0013].

For claim 3, McCrory et al. teach the substrate includes seeds lodged in the felt [0031][0032].

Applicant respectfully disagrees. However, in order to expedite prosecution and not for reasons of patentability, Applicant has amended claim 1 to recite in relevant part, " . . . a mass of predominantly unscoured animal wool, ~~hair, or fur~~ wherein the natural biodegradable felt includes at least a portion of animal faeces derived from the unscoured animal wool.

Applicant submits that McCrory does not teach each and every element of independent claim 1 as amended. To anticipate a claim under 35 U.S.C. §102, the reference must teach each and every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987). As such, it is axiomatic that for a reference to be anticipatory, each and every feature in the claims must be disclosed by the single reference.

Here, the Examiner alleges that McCrory teaches a natural biodegradable felt comprised predominantly of unscoured animal wool, hair, or fur, and cites paragraphs 7, 12, and 13 of McCrory in support of his position. Since Applicant has amended claim 1 to delete "hair" and "fur" the rejection with respect to these is now moot. With respect to the claim limitation "*unscoured animal wool*" Applicant submits that McCrory does not teach, either expressively or inherently, the claim limitation, *unscoured animal wool*.

For example, in paragraphs 7 and 13 of McCrory, it teaches an "apparatus [for retaining moisture at or near the root system of a plant] comprised of animal hair. . . combination of animal hair and human hair, and a natural fiber. " without

anything more. No where does it state that the apparatus can include wool, let alone *unscoured animal wool* as presently claimed. One skilled in the art knows that wool differs from animal hair in that it is crimped and elastic, has a different texture or handle, and grows in staples or clusters. Wool is primarily derived from sheep and a select group of other mammals. As such, McCrory does not teach the use of wool, as presently claimed. Since McCrory does not teach the use of wool, it certainly does not teach the use of unscoured wool as presently claimed. As one skilled in the art knows, unscoured wool is wool that includes at least a portion of dag wool. The dag wool includes animal faeces and may also include dirt and other contaminants. Unscoured wool has a much higher quantity of lanolin than scored sheep wool, and is particularly high in nutrients including nitrogen, sulphur, potassium, and magnesium. In addition, McCrory teaches an apparatus for the *retention of moisture*. One skilled in the art knows that lanolin in unscoured animal wool is hydrophobic, and thus would not be used in an apparatus designed to retain moisture.

In addition, McCrory does not teach the claim limitation , ". . . wherein the natural biodegradable felt includes at least a portion of animal faeces derived from the unscoured animal wool." As discussed above, McCrory teaches animal hair, the combination of animal hair and human hair, and

natural fibers for use in the apparatus, *without anything more*. As such, McCrory does not teach that the felt includes animal faeces.

In view of all of the foregoing, Applicant submits that McCrory does not anticipate independent claim 1 as amended, as it does not teach each and every claim limitation. Furthermore, Applicant submits that since claims 2 and 3 depend from claim 1, they contain all of the claim limitations of independent claim 1 as amended. As such, McCrory does not anticipate claims 2 and 3 for the reasons outlined above with respect to claim 1.

On page 3 of the Office Action, the Examiner rejected claims 4-5 under 35 U.S.C. § 103(a) as being unpatentable over McCrory et al. (as above).

For claim 4, McCrory et al. teach the substrate being made out of human hair or animal hair, or a combination of both. However, McCrory et al. are silent about the substrate is constructed substantially only from fibres of unscoured sheep wool and dags. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the substrate of McCrory et al. out of substantially only from the fibres of unscoured sheep wool and dags, since it has been held within the general skill of a worker in the art to select a known material on the basis of suitability for the intended use as a matter of choice.

For claim 5, McCrory et al. are silent about the natural biodegradable felt having a density from 0.01 to 0.8 g/c.c., and a thickness from 2mm to 60mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the natural biodegradable felt of McCrory et al. with a density from 0.01 to 0.3 g/c.c., and a thickness from 2mm to 60mm, since it has been held that where routine testing and general experimental conditions (what plant/seed types the felt is

used for) are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

Applicant respectfully disagrees. However, in order to expedite prosecution, and not for reasons of patentability, Applicant has herein cancelled claim 4. Applicant reserves the right to pursue the subject matter of claim 4 at a later date.

In addition, on page 3 of the Office Action, Examiner recites in relevant part: "For claim 5, McCrory et al. are silent about the natural biodegradable felt having a density from 0.01 to 0.3 g/c.c., and a thickness from 2mm to 60mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the natural biodegradable felt of McCrory et al. with a density from 0.01 to 0.3 g/c.c., and a thickness from 2mm to 60mm . . .". The Examiner alleges that the parameters identified in claim 5 are the result of "routine testing."

Applicant respectfully disagrees. Applicant submits that the density and thickness ranges presently claimed provide new and unexpected results relative to the prior art. In fact, the prior art cited does not teach or suggest any range density or thickness range. Referring to Table 1, page 12 of the specification of the subject application, for example, it lists

density ranges and applications associated therewith. Applicant has unexpectedly found that certain density ranges are optimal for certain applications. For example, Applicant has found that a density range of 0.08 to 0.09g/c.c. to be optimal for use as a plant liner or pot disks exterior of hydroponic substrate. In addition, Applicant has discovered that a density of 0.02 to 0.04 g/c.c. is optimal for the upper layer of planting maters, especially for "instant lawn," such as mats used for sand dunes. As such, Applicant submits that the density and thickness range provides unexpected, superior results compared to the prior art, which does not teach or suggest any range.

In addition, Applicant submits that the invention as claimed in claim 5 would not be obvious to try in view of McCrory. As discussed above, McCrory does not teach the use of unscoured animal wool having animal faeces. It would not be obvious to try using the animal hair or human hair as disclosed in McCrory with no disclosure regarding the thickness and/or density of the felt itself to derive with the claimed invention with a reasonable expectation of success.

For all the reasons above, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 103 and 35 U.S.C. § 102.

If, after considering this Amendment, the Examiner believes that any of the pending claims are not properly allowable, Applicants request that the Examiner please contact its authorized representative identified below by phone prior to issuing any further Office action for the purpose of hopefully resolving any such issue.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Please charge our Deposit Account No. 10-0440 if any additional fees are necessary for this matter.

Respectfully submitted,

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